

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



April 1, 2011

Boy's Town of Washington, Inc.
Jeffrey C. Peterson, Executive Director
4801 Sargent Rd., NE
Washington, DC 20017

Re: Review of Development Proposal for Determination of the Necessary BZA Relief

Dear Mr. Peterson:

This letter is in response to your request for guidance on the specific Board of Zoning Adjustment relief needed for Boys Town of Washington, Inc.'s (Boys Town) development proposal.

You have provided me a site plan detailing the proposed development, and explained to me that the development consists of the construction of one single-family dwelling, to be located as shown on the site plan (attached). This new house will be used as a youth residential care home, as such term is defined in Section 199.1 of the Zoning Regulations. Per our discussions, the subject dwelling will house no more than six (6) children and two staff, and will be nearly identical in size and configuration to the four existing homes that were approved by special exception in BZA Order No. 16531 issued December 21, 2000.

The current Certificate of Occupancy for the subject property (attached) authorizes the use of a Youth Residential Care Home (Buildings A-D), as per BZA Order No. 16531. A separate "short-term" youth residential care home (formerly termed an emergency shelter) is also operated on the Property under a separate certificate of occupancy. This separate home was approved in BZA Order No. 15805 on August 31, 1993, and was not addressed in BZA Order No. 16531.

In BZA Order No. 16531, the Board approved Boys Town's special exception request pursuant to Section 303 of the Zoning Regulations, for the construction of four new homes on the Property. In that case, the Board requested guidance from the then-Zoning Administrator, Michael Johnson to confirm the appropriateness of the self-certified relief. The Zoning

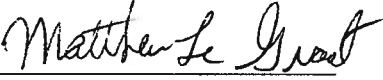
Administrator agreed that relief pursuant to Section 303 was appropriate, and the Board confirmed, as follows:

“The Zoning Administrator concluded that Boys Town had sought complete and proper relief, since each proposed home would house not more than six youths. If the subject property had been subdivided so that each home was on a separate lot, each of the four homes could have been used as a youth residential care home as a matter of right. See 11 DCMR §300.3. The Zoning Administrator also noted that in adopting the community-based residential facilities to lessen their impact on, and to increase their compatibility with, neighboring properties and to provide alternatives to institutional settings. Accordingly, the Board processed the application as a special exception rather than a variance.”

I agree with the determinations made by the former Zoning Administrator and the Board, related to the Order No. 16531, and I believe the same rationale is applicable here. This is the most appropriate form of relief, given the circumstances, and also provides the Board, and the community, to evaluate the proposal under the very specific “youth residential care home” regulations, rather than relying on variance relief, theoretical subdivision, or some other provision not specifically related to youth residential care homes.

Therefore, Boys Town should proceed with a special exception application under Section 303, in effect modifying the existing approval under Order No. 16531, applying for a modification to add one additional youth residential care home housing no more than six children.

Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments

cc: Melinda Bolling, Esq.
Martin Sullivan, Esq.

File: Determination Ltr to Peterson re Boystown - 4801 Sargent Rd., NE 4-1-2011

Department of Consumer and Regulatory Affairs

Permit Operations Division

941 North Capitol Street NE Room 2100

Washington DC 20002

Tel. (202) 442 - 4589 Fax (202) 442 - 4862

TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442 9557



CERTIFICATE OF OCCUPANCY

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL
WORK IS COMPLETED AND APPROVED

PERMIT NO. CO0901582

Date: 03/20/2009

Address of Use: 4801 A SARGENT RD NE		Zone:	Ward: 5	Square: 3977	Suffix:	Lot: 0134
Description of Occupancy: BOYS TOWN OF WASHINGTON - YOUTH RESIDENTIAL CARE HOME (BUILDINGS A-D) (BZA ORDER# 16531 - 10/3/2000)						
Permission Is Hereby Granted To: Boys Town Washington, D.C., Inc.	Trading As: BOYS TOWN WASHINGTON D.C. , INC.	Floor(s) Occupied 1ST, 2ND	PERMIT FEE: \$149.56			
Property Owner: Boys Town Washington, D.C. Inc.	Previous Use(s): Youth Residential Care Home - I-2	Occupant Load: 32	BZA Number: 16531			
Type of Occupancy: Ownership Change	Occupied Sq. Footage: 23641	Approved Use(1): Youth Residential Care Home - I-2				
Conditions/ Restrictions: This Permit Expires if no Construction is Started Within 1 Year or if the Inspection is Over 1 Year. All Construction Done According To The Current Building Codes And Zoning Regulations; As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund must be made within six months of the date appearing on this permit.						
Director: Linda K. Argo	Permit Clerk: Doris Mindt	Expiration Date:				
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.						


GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION



MEMORANDUM

April 10, 2000

To: Sherri Puritt William, Secretary To the Board
Board of Zoning Adjustments (BZA)
DC Office of Zoning

From: Michael D. Johnson 
Zoning Administrator

Subject: Request for Zoning Administrator's Review
BZA Application No. 16531 4801 Sargent Road, N.E.
(Father Flanagan's Boys Home)

The Board has requested, through the Secretary of the Board, my advice as to whether the subject application of Father Flanagan's Boys' Home requests the proper relief from the Board. The application requests a special exception under Section 303 to permit four residential care buildings, each housing no more than six persons.

I have reviewed the applicable Zoning Regulations, the order of the Zoning Commission originally adopting what is now section 303, and the decision of the Court of Appeals in *Speyer v Barry* (588A.2d 1147 DC App. (1991)). I have discussed the matter with members of my staff and with representatives of the applicant, who certified the relief to the Board. I have determined that the applicant has requested the proper relief from the Board, and that no other relief is required for the proposed use and development to proceed.

The application proposes the construction of four separate youth residential care homes, in a campus like setting on a 12+ acre property. The applicant will own the entire property and will set program requirements on an overall basis (as it does for all of its similar properties around the United States). Each home will be run by a married couple who will live on the premises and will supervise the daily living and care of the six individuals who is proposed to reside in each building. Additionally, each house will contain all of the facilities to accommodate the six youths and two adults (e.g. kitchen, living room, bedrooms and bathrooms) and the homes will not share facilities, in common.

Under Section 201.1(n)(1), in an R-1 District (and by extension in an R-2 District), a youth residential care home for not more than six persons, not including resident supervisors or staff and their families, is a permitted, matter of right use. If the subject property had been subdivided so that each of the houses was on a separate lot of record, no relief from the Board would have been required.

As a campus like facility, with the four proposed buildings, in addition to the existing emergency shelter which was approved by the Board in Application No. 15805, order dated August 31, 1993, the relief required from the Board is as advertised. I note that under Section 303.7, the Board must determine that "the cumulative effect of the {community based residential} facility will not have an adverse impact on the neighborhood because of traffic, noise or operations."

This case can be distinguished from the Hurt Home case, the one which was subject of the Court of Appeals decision in *Speyer v. Barry*. In that application, a single home was proposed to accommodate

BZA

Case No. _____

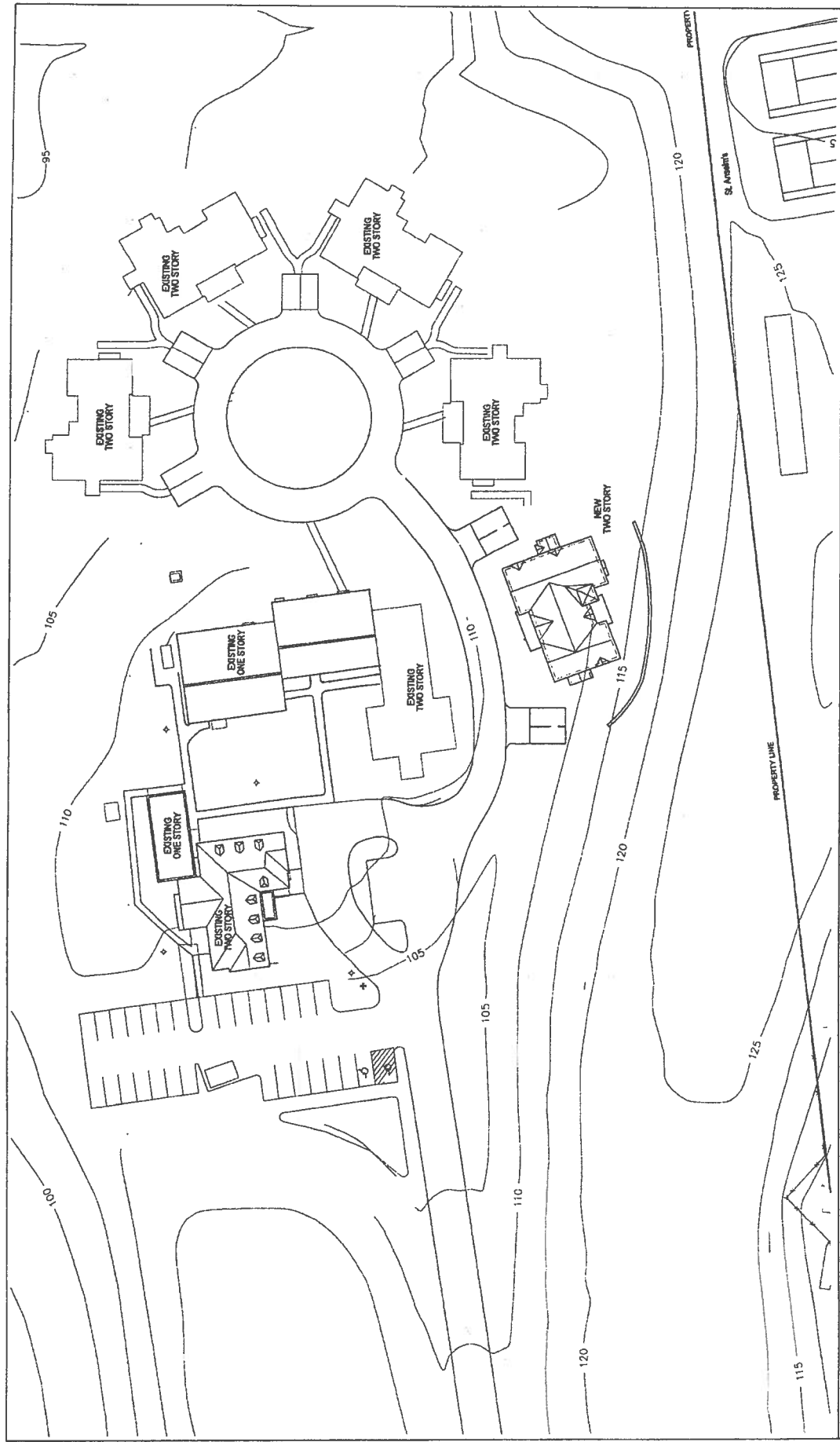
more than twenty residents. The Court found that a variance was required because, by special exception, the Board could approve no more than fifteen residents. In adopting the CBRF regulations, in Order No. 347, dated July 9, 1981, the Zoning Commission set out four principles it relied upon in amending the Regulations. One of those principles was:

Smaller facilities, approximating the size and characteristics of families, should be encouraged, to lessen impact, increase compatibility and provide for true alternatives to institutional settings.

I believe that the use and development of the proposed application meets the legislative intent of the Zoning Regulations. If I may be of further assistance, please let me know.

cc: Lloyd J. Jordan, DCRA Director
Armando M. Lourenco, BLRA Administrator
Edgar T. Nunley, Chief, Zoning Review Branch
✓Jerrilyn Kress, Director, OZ
Marie Sansome, Assistant Corporation Counsel
Steve Shur, Wiikes and Artis

MDJ/er/mdj
father flannigan/my/bza



Boys Town - Sargent Road Youth Residential Care Home Boys Town - Washington DC 4801 Sargent Road Washington DC 20017		Boys Town Site Plan - Proposed Youth Residential Care Home Location PROJECT 1188 Pennsylvania Blvd, NW Suite 400 Washington, D.C. 20004 202 638-5000 Fax: 202 638-5027 info@boysonline.com		SK 01/10/11
1"=50' 0" 10 January 2010		E SOCOFF & ASSOCIATES Architects		